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| 10/533,933 | 10/31/2005 | Michael Barry Sawdy | 1111-28 | 8100 |
| 24106 7590 03/19/2008 EGBERT LAW OFFICES 412 MAIN STREET, 7TH FLOOR HOUSTON, TX 77002 | | | | |
| EXAMINER | | | | |
| NELSON JR, MILTON | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 3636 | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/533,933

Applicant(s)

SAWDY, MICHAEL BARRY

Examiner

Milton Nelson, Jr.

Art Unit

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/31/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-15 and 17-21 is/are rejected.
- 7) ☒ Claim(s) 9, 16 and 22-24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 5/4/05 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB-08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date = _____

DETAILED ACTION

Information Disclosure Statement

The information referred to in Applicant's information disclosure statement has been considered.

Preliminary Amendment

Applicant's preliminary amendment has been entered.

Drawings

The drawings are objected to because the reference character 61 is described in the specification as a flange, however it's leader line is directed to the head of the horizontal drive rod in Figure 6. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after

the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 4, 5, 6, 7, 8, 13, 14 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In line 3 of claim 2, the "hooks" lack proper antecedent basis. In claim 4, it is unclear if "one upper and one lower pivotal link" and "another upper and another lower pivot link" are intended to be the same structure as the upper and lower pivotal links that have been previously set forth. In claims 6 and 7, the spelling of "center" has "centre" is not consistent with U.S. practice. In claim 7, "the mounting frame" lacks proper antecedent basis. Claim 8 is indefinite since it depends from an indefinite claim. Line 1 of claim 13 includes vague spelling. Note the recitation "acording". Claim 14 is indefinite since it depends from an indefinite claim. In claim 19, "the space in front of the backrest" lacks proper antecedent basis.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 6, and 10, as best understood with the above cited indefiniteness, are rejected under 35 U.S.C. 103(a) as being unpatentable over Volz et al (6149528) in view of Kave (5120103). The primary reference shows all claimed features of the instant invention with the exception of at least one seat belt mounted on the fitting and passing through a guide at a top of the backrest. In the primary reference, note the squab (58), seat back mounting (48), backrest (55, 55, 49, 56, 56), mechanism (60, 61, 70, 72, 74), wherein the mechanism is comprised of pivotal links, wherein the mechanism is an over-dead-center mechanism, wherein in the forward position, the backrest is pivotable about a horizontal axis.

The secondary reference conventionally teaches providing at least one seat belt mounted on a fitting and passing through a guide at a top of a backrest. Note Figure 4.

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of the secondary reference by adding at least one seat belt mounted on a fitting and passing through a guide at the top of the backrest. Such conventionally provides a means for enhancing user safety.

Claims 11, 12, 13, and 15, as best understood with the above cited indefiniteness, are rejected under 35 U.S.C. 103(a) as being unpatentable over UK (2197628) in view of Mach (2753947). The primary reference shows all claimed features of the instant invention with the exception the support being mounted on rollers for lateral movement (claim 11), the support incorporating a base plate, the base plate being mounted on a platform for lateral movement (claim 12), wherein the base plate is provided with at least one projection extending downwardly to engage with at least one channel formed in the platform (claim 13), and a clamp provided to clamp the base plate in position (claim 15). In the primary reference, note the support (2, 3), squab (6, 7), and backrest (5).

The secondary reference conventionally teaches providing a seat support as mounted on rollers (44 and/or 43) for lateral movement, the support incorporating a base plate (41), the base plate being mounted on a platform (36) for lateral movement, wherein the base plate is provided with at least one projection (43) extending downwardly to engage with at least one channel formed in the platform, and a clamp (52, 53, 54) provided to clamp the base plate in position.

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of the secondary reference by adding substituting for the rail system (1) and system with rollers for lateral movement (claim 11), wherein the support incorporates a base plate, the base plate being mounted on a platform for lateral movement (claim 12), wherein the base plate is provided with at least one projection extending downwardly to engage

with at least one channel formed in the platform (claim 13), and further including a clamp provided to clamp the base plate in position (claim 15). Such provides easier selective movement and securement of the seating assembly.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over UK (2197628) in view of Mach (2753947), as applied to claim 11, and further in view of Marinelli (6533341). The primary reference, as modified above, shows all claimed features of the instant invention with the exception the of backrest having a relatively wide upper portion and a relatively narrow lower portion. Mach conventionally teaches providing a seat support as having a relatively wide upper portion and a relatively narrow lower portion (see Figure 1).

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to further modify the primary reference in view of the teachings of Mach by configuring the backrest as having a relatively wide upper portion and a relatively narrow lower portion. Such reduces the space used by the backrest while maintaining user support and comfort.

Claims 18-21, as best understood with the above cited indefiniteness, are rejected under 35 U.S.C. 103(a) as being unpatentable over Kave (5120103) in view of Silbert (1210223).

The primary reference shows all claimed features of the instant invention with the exception the backrest being relatively broad at the top and being relatively narrow at a

lower position. In the primary reference, note backrest (14), seat belts (21, 21), guides (see Figure 1) at the top of the backrest, space in front of the backrest that is unobstructed (in Figure 3, note the area above the squab (13)), removability of the seat squab (note removability from a horizontal orientation, as shown in Figure 5).

The secondary reference conventionally teaches providing a seat with a backrest that is relatively broad at the top and relatively narrow at a lower position (see Figure 1).

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify the primary reference in view of the teachings of the secondary reference by configuring the backrest as relatively broad at the top and relatively narrow at a lower position. Such reduces the amount of space used by the backrest while maintaining user stability, support and comfort.

Allowable Subject Matter

Claims 9, 16, 22, 23 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 2, 4, 5, 7, 8, and 14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Stachlin et al (6254185) shows a seat assembly that provides accessibility for a wheelchair. Fraley et al (6811186) shows a pair of shoulder restraints with corresponding guides. Each of Steward et al (2723710) and Nadell (1743377) shows a backrest that is linked to a support structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milton Nelson, Jr. whose telephone number is (571) 272-6861. The examiner can normally be reached on Mon-Thurs, and alternate Fridays, 5:30-3:00 EST.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Milton Nelson, Jr./
Primary Examiner, Art Unit 3636

mn
March 10, 2008